

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TODD FROST,

Petitioner,

Case No. 05-C-659

v.

PHILLIP KINGSTON, Warden,

Respondent.

OPINION AND ORDER

Habeas corpus Petitioner Todd Frost has filed a Notice of Appeal. Construing the Notice to include a request to proceed in forma pauperis on appeal and a request for a certificate of appealability, the court ORDERS that the request for a certificate of appealability IS DENIED. The Petitioner has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(C). In addition his petition for collateral review was not timely filed.

IT IS FURTHER ORDERED that Frost's request to proceed in forma pauperis on appeal IS DENIED.

Done and Ordered in Chambers at the United States Courthouse,
Milwaukee, Wisconsin, this 14th day of September, 2005.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge